

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

ANGLEA MCLENDON

(b) County of Residence of First Listed Plaintiff _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
 Kimmel & Silverman, P.C.
 30 E. Butler Pike
 Ambler, PA 19002
 (215) 540-8888

DEFENDANTS

ACCOUNTS RECEIVABLES MANAGEMENT, INC.

County of Residence of First Listed Defendant _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	<input type="checkbox"/> PTF 1	<input type="checkbox"/> DEF 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF 4	<input type="checkbox"/> DEF 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 410 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input checked="" type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	LABOR	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	PERSONAL PROPERTY	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	SOCIAL SECURITY	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405(g))	
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) _____ 6 Multidistrict Litigation

Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C SECTION 1692
Brief description of cause:
Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S)

(See instructions):

JUDGE _____

DOCKET NUMBER _____

Explanation: _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

10/19/12

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 9202 Harpers Crossing, Langhorne, PA 19047

Address of Defendant: 155 Mid Atlantic Parkway, Thorofare, NJ 08086

Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes No

Does this case involve multidistrict litigation possibilities?

Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. Indemnity Contract, Marine Contract, and All Other Contracts

B. *Diversity Jurisdiction Cases:*

1. Insurance Contract and Other Contracts

2. FELA

2. Airplane Personal Injury

3. Jones Act-Personal Injury

3. Assault, Defamation

4. Antitrust

4. Marine Personal Injury

5. Patent

5. Motor Vehicle Personal Injury

6. Labor-Management Relations

6. Other Personal Injury (Please specify)

7. Civil Rights

7. Products Liability

8. Habeas Corpus

8. Products Liability — Asbestos

9. Securities Act(s) Cases

9. All other Diversity Cases

10. Social Security Review Cases

(Please specify) _____

11. All other Federal Question Cases

(Please specify) 15 U.S.C. § 1692

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 10/19/12

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/19/12

Attorney-at-Law

57100

Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

ANGELA MCLENDON : CIVIL ACTION
V. :
: NO.
ACCOUNTS RECEIVABLES :
MANAGEMENT, INC. :

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()

(f) Standard Management – Cases that do not fall into any one of the other tracks. ()

10/19/12
Date

Craig Thor Kimmel
Attorney-at-law

Plaintiff, Angela McLendon
Attorney for

215-540-8888
Telephone

877-788-2864
FAX Number

kimmel@creditlaw.com
E-Mail Address

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANGELA MCLENDON,)
Plaintiff)
vs.) CIVIL ACTION NO. **1**
ACCOUNTS RECEIVABLES)
MANAGEMENT, INC.,)
Defendant)

COMPLAINT

NOW COMES Plaintiff, ANGELA MCLENDON (“Plaintiff”), and her attorneys, Kimmel & Silverman, P.C., and for her Complaint against the Defendant, ACCOUNTS RECEIVABLES MANAGEMENT, INC. (“Defendant”).

Plaintiff alleges and states as follows:

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business in the Commonwealth of Pennsylvania, and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. §1391(b)(2).

PARTIES

3. Plaintiff is an adult individual who resides in Langhorne, Pennsylvania 19047.

4. Plaintiff is a “consumer” as defined in 15 U.S.C. §1692(a)(3), as she is a natural person allegedly obligated to pay a debt.

5. Defendant is a national debt collection company with its registered address at 155 Mid Atlantic Parkway, Thorofare, New Jersey 08086.

6. At all relevant times, Defendant acted as a “debt collector” within the meaning of 15 U.S.C. §1692(a)(6), in that they held themselves out to be a company collecting a consumer debt.

7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. At all pertinent times hereto, Defendant was hired to collect consumer debts allegedly owed by Plaintiff, in connection with two JP Morgan Chase Bank, N.A. accounts.

9. The alleged debts at issue arose out of transactions, which were primarily for personal, family, or household purposes.

10. Defendant began placing repetitive and harassing telephone calls to Plaintiff in or around June 2012.

11. Defendant contacted Plaintiff, on average, two (2) to four (4) times a day in its attempts to collect the alleged debts.

12. As a result, Plaintiff regularly received more than ten (10) collection calls a week.

1 13. Additionally, in its attempts to collect the debts, Defendant contacted Plaintiff's
2 mother, a co-signor on the loans, in an attempt to get her to make a payment on the alleged
3 debts.

4 14. It was embarrassing and humiliating to Plaintiff to have it disclosed to her
5 mother that she was delinquent on the accounts and for Defendant to seek payment from her
6 mother.

7 15. Further, upon information and belief, in its collection of the debts, Defendant
8 obtained Plaintiff's credit report to gather information about her personal finances in order to
9 put pressure on Plaintiff to make payment on the alleged debt.

10 16. Specifically, Plaintiff spoke with one of Defendant's collectors, who suggested
11 that she use her Chase Credit card to make a payment, because he could see that this account
12 was in good standing.

13 17. Also, Defendant's collector claimed that he could see that Plaintiff was regularly
14 making her car payments.

15 18. Defendant's collector insisted that Plaintiff make a down payment of at least
16 \$4,000.00.

17 19. When Plaintiff informed Defendant's collector that she could not make a
18 \$4,000.00 payment, the call was transferred to a supervisor, who also insisted that Plaintiff
19 make a down payment of \$4,000.00. Plaintiff asked if she could call back with an amount that
20 she could pay, the supervisor started screaming at her, which was humiliating, degrading and
21 harassing to Plaintiff.

1 20. Finally, upon information and belief, Defendant failed to send, within five days
2 of its initial communication with Plaintiff, written notification to Plaintiff of her rights to
3 dispute the debt and/or to request verification of the debt.

4 21. Rather, upon information and belief, Defendant did not mail the letter until the
5 end of June 2012, but pre-dated the letter June 25, 2012, as Plaintiff did not receive the written
6 notification until July 2, 2012.

7 22. Then, on July 9, 2012, when speaking with Defendant, its collectors refused to
8 work with Plaintiff on a payment plan; rather, its collectors spoke to Plaintiff in a loud voice
9 and were rude to her.

10 23. After receiving its letters, Plaintiff spoke with one of Defendant's collectors in
11 an attempt to set up a payment plan. However, its collector refused to work with Plaintiff on
12 setting up a payment plan; rather, the collector spoke to Plaintiff in a loud, demeaning voice,
13 telling her that he knew she was current with her payments to Chase on her student loans, so
14 she could pay these debts.

15 24. When Plaintiff told Defendant she was not current on her student loans or Chase
16 account, Defendant would not believe Plaintiff, insisting that she was being difficult and did
17 not want to pay.

18 25. Then, on the following day, Defendant's collector, who identified herself to
19 Plaintiff as Heidi, claimed that Defendant would accept \$200.00/month from Plaintiff.

20 26. Plaintiff agreed to those payment arrangements, provided her banking account
21 information, and requested that Defendant put the payment arrangements in writing.

22 27. To date, Plaintiff has never received anything in writing from Defendant;
23 however Defendant debited \$200.00 out of Plaintiff's banking account in July 2012.

28. Defendant's actions in connection with the collection of Plaintiff's alleged debt were harassing, abusive, deceptive and unfair.

VIOLATIONS OF FAIR DEBT COLLECTION PRACTICES ACT

29. Plaintiff reincorporates by reference all of the preceding paragraphs.

30. Defendant's conduct violated the FDCPA in multiple ways, including but not limited to:

COUNT I

- a. A debt collector violates §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
- b. A debt collector violates §1692d(5) of the FDCPA by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
- c. Here, Defendant violated §§1692d and 1692d(5) of the FDCPA when it called Plaintiff two (2) to four (4) times a day over a two (2) month period in its attempts to collect a debt.
- d. Also, Defendant violated §1692d of the FDCPA by speaking to Plaintiff in a loud, demeaning voice, as well as yelling at Plaintiff.

COUNT III

- a. A debt collector violates §1692f of the FDCPA by using unfair or unconscionable means to collect or attempt to collect any debt.
- b. Here, Defendant violated §1692f of the FDCPA engaging in other unfair

1 and unconscionable debt collection practices, including calling Plaintiff's
2 mother, disclosing that Plaintiff was delinquent on the accounts, and
3 requesting that she make payment; reviewing Plaintiff's credit report to
4 gather information about Plaintiff's personal finances and insisting that
5 Plaintiff use another credit card to make a payment; demanding
6 unreasonable amounts for a down payment; refusing to work with
7 Plaintiff to set up a payment plan; and not sending Plaintiff
8 correspondence confirming the terms of repayment, but instead debiting
9 money out of her banking account.

12 **COUNT III**

13 a. A debt collector violates §1692g(a) of the FDCPA by failing to send to
14 the consumer, within five days after its initial communication with a
15 consumer in connection with the collection of a debt, a written notice
16 containing: (1) the amount of the debt; (2) the name of the creditor to
17 whom the debt is owed; (3) a statement that unless the consumer, within
18 thirty days after receipt of the notice, disputes the validity of the debt, or
19 any portion thereof, the debt will be assumed to be valid by the debt
20 collector; (4) a statement that if the consumer notifies the debt collector
21 in writing within the thirty-day period that the debt, or any portion
22 thereof, is disputed, the debt collector will obtain verification of the debt
23 or a copy of a judgment against the consumer and a copy of such
24 verification or judgment will be mailed to the consumer by the debt
25 collector; and (5) a statement that, upon the consumer's written request
26
27
28

within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

b. Here, Defendant violated §1692g of the FDCPA by failing to send written notification, within five (5) days after its initial communication with Plaintiff, advising Plaintiff of her rights to dispute the debt or request verification of the debt or providing her with the name of the original creditor and the amount of the debt.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, ANGELA MCLENDON, respectfully prays that judgment be entered against the Defendant for the following:

- a. All actual damages suffered pursuant to 15 U.S.C. §1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. §1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. §1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR A JURY TRIAL

Plaintiff demands a trial by jury as to all issues triable.

1 RESPECTFULLY SUBMITTED,

2 DATED: 10/19/2012 KIMMEL & SILVERMAN, P.C.

3
4 By: /s/ Craig Thor Kimmel
5 Craig Thor Kimmel
6 Attorney ID No. 57100
7 Kimmel & Silverman, P.C.
8 30 E. Butler Pike
9 Ambler, PA 19002
Phone: (215) 540-8888
Fax: (877) 788-2864
Email: kimmel@creditlaw.com